

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3325 OF 2007

Nilam M. Kamble Petitioner

V/s.

The State of Maharashtra & Ors. Respondents

Mr.R.K. Mendadkar for the Petitioner.

Mr.R.D. Rane, G.P. for Respondent Nos.1, 2 and 4.

CORAM : F.I. REBELLO &
R.M. SAVANT, JJ.
DATED : 25TH JUNE, 2007.

P.C. :

1. The Petitioner impugns the order passed by the Scrutiny Committee dated 15.2.2007 whereby the Petitioner's claim as belonging to Koli Mahadeo, Scheduled Tribe has been rejected. It is the case of the Petitioner that the Petitioner produced several documents which will indicate that the Petitioner belongs to Koli Mahadeo, Scheduled Tribe. Secondly, it is submitted that the Petitioner was examined and she had given the details of traits, characteristics custom and traditions of the community, which will show that he belongs to Mahadeo Koli, Scheduled Tribe, this has not considered by the Committee.

2. We have heard the learned counsel for the parties. We find that earlier entries of school register of the Petitioner's family shows that her father's entry was entered as Hindu Koli on 8.8.1958 and the date of birth is 1.11.1951. Similarly the paternal aunt Shanta Pandharinath Kamble's date of birth is 1.6.1954 and the date of admission is 13.6.1961 and the caste is shown as Hindu Koli. However, in respect of the paternal aunt Suman Pandharinath Kamble, her date of birth is 29.2.1964 and her date of admission in the school is 30.7.1971 and her caste is shown as Hindu Mahadeo Koli. As far as after documents produced, also show the caste as Hindu Mahadeo Koli.

3. The issue before us is whether the order suffers and or discloses any error of law apparent on the face of record. In the first instance, the caste of the grand-parents of the Petitioner and the Petitioner's father and her aunt was recorded as Hindu Koli and that of another aunt in the year 1971 as Hindu Mahadeo Koli. The Supreme Court has noted that it is impossible for a person to forget one's tribe origin and trait. It is therefore, clear that the entry in 1971 and thereafter have now been made in an

attempt to get the benefit of Hindu Mahadeo Koli. It is not be possible to accept that the grandfather in respect of his children who joined school in 1958 and 1961 erred in recording their caste as Koli and then corrected the same for his younger daughter who joined school in 1971. We therefore are in agreement with the view taken by the Committee on that count.

4. In so far as the traits, characteristics, customs and traditions are concerned, the order shows that before the enquiry officer, the father and the applicant read out the traits, characteristics, customs and traditions from a typed paper. It is impossible to believe that the Petitioner's father would not be knowing about his traits, characteristics, customs and traditions of his tribe and had to read out the same from paper. This by itself indicates that the Petitioner's father was unaware of the traits, characteristics, customs and traditions and read out from the typed paper prepared by some other person to pass off his caste as that of Mahadeo Koli, Scheduled Tribe. The contention that the Petitioner was examined by the Committee and that has not been considered, the Committee has noted that whatever information given by the Petitioner and her father shows that they have failed to prove affinity

test towards Koli.

. These are purely findings of fact. Hence we are not inclined to interfere in the exercise of our extra-ordinary jurisdiction under Article 226 of the Constitution of India. The Petition is rejected.

(R.M. SAVANT, J.)

(F.I. REBELLO, J.)